

# ARIZONA DEPARTMENT OF ADMINISTRATION

## Policies and Procedures

Subject: Americans with Disabilities Act  
Supersedes: N/A

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### **DEFINITIONS:**

***Discrimination because of Disability:*** Treating an individual with a disability less favorably than a similarly situated person without a disability; favoring a person with one disability over a person with a different disability; and refusing to provide a reasonable accommodation which is necessary to enable an individual with a disability to perform the essential functions of the job.

***Essential Functions of a Job:*** The fundamental job duties of a position that employees in that position actually are required to perform and whose removal would fundamentally change the job.

***Individual with a Disability:*** A person who has a physical or mental impairment that substantially limits one or more major life activities, has a record of such an impairment, or is regarded as having such an impairment.

***Major Life Activities:*** Activities such as walking, speaking, breathing, seeing, hearing, sitting, standing, caring for oneself, working.

***Medical Information:*** Information about an employee's health, including diagnosis, test results, interpretations of medical information, job restrictions and required job accommodations.

***Qualified Individual with a Disability:*** A person with a disability who satisfies the requisite skill, experience, education and other job-related requirements of an employment position, and who, with or without reasonable accommodation, can perform the essential functions of the position. Any applicant or employee who is currently engaging in the illegal use of drugs is not a qualified individual with a disability.

***Reasonable Accommodation:*** Any modification or adjustment to the job application process that enables a qualified applicant with a disability to be considered for the position; modifications or adjustments to the work environment or the manner or circumstances under which the position customarily is performed that allow a qualified individual with a disability to perform the essential functions of the position or to enjoy equal benefits and privileges of employment. Any accommodation that would cause undue hardship or would pose an undue risk of harm to the employee or others is not a reasonable accommodation.

***Undue Hardship:*** An accommodation that would be unduly costly, substantial or disruptive, or that would fundamentally alter the nature or operation of a division, section, program, service or activity.

## **POLICY:**

The Arizona Department of Administration (ADOA) provides equal employment opportunities, with reasonable accommodations when appropriate, to applicants and qualified employees with disabilities. The ADOA also provides employees and members of the general public who have disabilities equal access with reasonable accommodations and auxiliary aids, when appropriate, to enable them to have equal access to ADOA programs, services and activities.

The Department prohibits and will not tolerate discrimination against qualified individuals with disabilities with regard to the terms and conditions of employment, including the application process, hiring, promotion/advancement, termination, training, compensation, benefits, or any other term or condition of employment. An individual with a disability is considered qualified if the individual has the required skills, experience, education or other job-related qualifications of the position and if, with or without reasonable accommodations, the individual can perform the essential functions of the position.

## **PROCEDURES:**

### **OBTAINING A REASONABLE ACCOMMODATION**

#### **1. Applicants for Employment**

Any applicant for employment who requires a reasonable accommodation in order to apply, interview or otherwise compete for a position with the Department should inform the hiring supervisor, the Department's ADA Coordinator and/or the Employee Relations Manager at the earliest possible time of the need for an accommodation. The Department will make all reasonable efforts to provide an accommodation to an applicant when the accommodation sought is reasonably necessary for the applicant to compete for the position on an equal basis with applicants who do not have disabilities. At no time prior to an offer of employment will the applicant be asked whether s/he has a disability, or any questions that would tend to elicit such information. All applicants shall be considered and all hiring decisions will be made on the basis of an applicant's qualifications, and not on the basis of an individual's actual or perceived disability or whether or not the applicant will require an accommodation if hired.

#### **2. Employees**

Any employee who requires a reasonable accommodation in order to perform the essential functions of his or her job may request that accommodation by notifying the employee's supervisor, the Department's ADA Coordinator, and/or the Department's Employee Relations Manager of the need for reasonable accommodation. The employee will be provided a Request for Accommodation form, and should complete Sections A and B. If the employee has a disability that precludes completing the form, it may be completed by providing the required

information orally to the supervisor, the ADA Coordinator or the Employee Relations Manager, who will transfer the information to the form.

Unless the requesting employee's disability and need for reasonable accommodation are obvious, the employee may be requested to provide reasonable documentation from the employee's physician or other health care provider about the nature of the disability and the functional limitations that require accommodation. If requested, this documentation must be provided to the supervisor, ADA Coordinator or Employee Relations Manager before the request for an accommodation will be granted. Any medical documentation provided in response to the request for additional information will be maintained in a confidential file separate from the employee's personnel file, and will not be provided to anyone except in the following situations: (1) First aid and safety personnel may be informed when appropriate if the disability might require emergency treatment; (2) Supervisors and managers may be informed regarding necessary restrictions in the work or duties of the employee and of any reasonable accommodations which are to be provided; and (3) Government officials investigating compliance with the American With Disabilities Act shall be provided relevant information upon request.

After any requested documentation is provided, the supervisor, ADA Coordinator and/or the Employee Relations Manager may meet with the employee requesting accommodation to discuss the employee's limitations and what the employee expects to accomplish with the proposed accommodation. The supervisor, in consultation with the ADA Coordinator, Employee Relations Manager and/or the Arizona Office for Americans with Disabilities, will determine whether the particular accommodation sought by the employee is reasonable, and/or whether there are other accommodations that the Department can provide which will allow the employee to perform the essential functions of the job at less cost or burden to the Department. The supervisor's recommendation will be documented in section C of the Request for Accommodation form.

The division Assistant Director shall review the request for accommodation and the supervisor's recommendation and shall approve or disapprove the recommended accommodation in section D of the Request for Accommodation form. The division Assistant Director shall notify the employee whether an accommodation will be provided, the nature of the accommodation, and (if appropriate) when the accommodation will be received. If the supervisor, the ADA Coordinator, the Employee Relations Manager and/or the division Assistant Director determine that the accommodation sought by the employee is not reasonable, and no other accommodation can be provided which would allow the employee to perform the essential functions of the position, the division Assistant Director shall notify the employee of that determination and shall document all efforts made to find a reasonable accommodation and why the requested accommodation could not be provided. The employee shall receive a copy of the

completed Request for Accommodation form and the original shall be retained in a confidential file separate from the official personnel file.

3. Programmatic Accessibility

Members of the general public and employees seeking accommodations to programs, services, or activities of ADOA can make their requests by contacting the Department's ADA Coordinator within a reasonable time prior to their need. Seventy-two hours advance notice is recommended.

### **COMPLAINTS OF DISCRIMINATION BASED ON DISABILITY**

Any person who believes that she/he is or has been discriminated against on the basis of disability or who has concerns about matters, whether alleged, perceived or actual, made unlawful by the Americans With Disabilities Act, is encouraged to promptly report the conduct without fear of retaliation. Reports or complaints of discrimination or violations of this policy may be made to the Department's ADA Coordinator, the Employee Relations Manager, or the Department's Director. All complaints or reports of discrimination on the basis of disability shall be promptly and thoroughly investigated.

### **PROTECTION AGAINST RETALIATION**

The Department will not tolerate or permit retaliation against any person who makes a complaint or report of discrimination or who participates or testifies in an investigation of such complaint or report. Retaliation is a serious violation of this policy. Any person found to have engaged in retaliation against another individual for reporting or testifying about any allegation of discrimination shall be subject to appropriate disciplinary action, up to and including termination.

### **MANAGEMENT RESPONSIBILITY FOR ENSURING NON-DISCRIMINATION**

Every manager and supervisor in the Department is responsible for ensuring a discrimination free workplace and must comply with the Department's policies and procedures and the laws dealing with discrimination. Any manager or supervisor who violates any such policy, procedure or law shall be subject to appropriate disciplinary action, up to and including discharge.

### **GRIEVANCE PROCEDURE**

The Department has developed the following internal grievance procedure to assure compliance with the Americans with Disabilities Act and to resolve concerns and complaints at an early stage. This procedure may be used by anyone who wishes to file a complaint alleging discrimination by the Department on the basis of disability in employment practices and policies or the provision of services, activities, programs or benefits. Use of this procedure does not affect other rights and remedies that may be available under federal and state statutes prohibiting discrimination on the basis of disability.

1. Any complaint or report of discrimination should be made in writing and contain information about the alleged discrimination such as name, address, telephone number of complainant and location, date, and description of the problem.
2. The complaint should be submitted by the complainant and/or his/her designee as soon as possible but no later than 60 calendar days after the alleged violation. The complaint should be directed to the ADA Coordinator at the following address:

Arizona Department of Administration  
Management Services Division  
100 N 15<sup>th</sup> Avenue, 3<sup>rd</sup> Floor  
Phoenix, Arizona 85007

3. All complaints of discrimination on the basis of disability shall be promptly and thoroughly investigated by the ADA Coordinator or his/her designee.
4. Within 15 calendar days of receipt of the complaint or report, the ADA Coordinator will meet with the complainant to discuss the complaint and possible resolutions.
5. Within 15 calendar days after the meeting, the ADA Coordinator will produce a written determination of the results of the investigation. This determination will explain the position of the Department and offer options for substantive resolution of the complaint, and make recommendations for disciplinary action as warranted. A copy of the written determination will be provided to the complainant.
6. If the response does not satisfactorily resolve the issue, the complainant or the complainant's representative may appeal the ADA Coordinator's decision to the ADOA Director or his/her designee within 15 calendar days after receiving the response.
7. Within 15 calendar days after receipt of the appeal, the ADOA Director or his/her designee will meet with the complainant to discuss the complaint and possible resolutions. The ADOA Director may involve the Arizona Office for Americans with Disabilities.
8. Within 15 calendar days after the meeting, the ADOA Director or his/her designee will respond in writing with a final resolution of the complaint. A copy of the final resolution will be provided to the complainant.
9. The ADA Coordinator shall maintain the files and records relating to complaints of discrimination on the basis of disability for a period of three years. Such documents shall be maintained as confidential records.

10. The ADA Coordinator will ensure accessibility during the complaint process, including provision of sign language interpreters and print data access (such as large print, Braille, or audio tape).

#### **OTHER RIGHTS AND REMEDIES**

Individuals who believe they have been subjected to discrimination on the basis of disability also may file charges of discrimination with the Arizona Civil Rights Division and with the Equal Employment Opportunity Commission. Charges filed with the Arizona Civil Rights Division must be filed within 180 days following the most recent act of discrimination; charges filed with the Equal Employment Opportunity Commission must be filed within 300 days following the most recent act of discrimination, except that allegations of discrimination because of mental disability must be filed within 180 days of the most recent act of discrimination.